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Summary record of the first part (public)* of the 1219th meeting
Held at the Palais Wilson, Geneva, on Friday, 2 May 2014, at 3 p.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1219/Add.1.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Initial report of Sierra Leone (CAT/C/SLE/1; HRI/CORE/SLE/2012)

1. *At the invitation of the Chairperson, the delegation of Sierra Leone took places at the Committee table.*

2. **Mr. Kargbo** (Sierra Leone) said that torture was prohibited under the Constitution of the State party, in which all the rights enumerated in the Universal Declaration of Human Rights and other international conventions were also enshrined. Nevertheless, a committee had been established to overhaul the Constitution in a process expected to culminate in a national referendum in 2016. New legislation before Parliament included a correctional services bill, which would bring laws governing prison conditions into line with international standards, for example by outlawing corporal punishment, as well as the criminal procedure bill, which should be enacted in 2014. The aim of the latter was to simplify and speed up criminal trials by eliminating the system of preliminary investigation and resorting less to jury trials, and to alleviate prison overcrowding by introducing alternatives to prison sentences such as community service.

3. The Local Courts Act had brought the administration of justice at the chiefdom and community level under the supervision of the Chief Justice of the Supreme Court. It had thereby contributed to reducing social friction by minimizing the delivery of harsh and unjustified decisions under traditional law. The Truth and Reconciliation Commission had found that such miscarriages of justice had helped to fuel the country's 11-year civil war.

4. The Independent Police Complaints Board was operating and free of interference by any ministry or government agency. The Human Rights Commission was similarly independent and conducted investigations. Conditions in places of detention, especially in police holding cells, and the training of law enforcement officials were improving. The National Commission for Children established under the Child Rights Act of 2007 would soon be fully staffed and operational. The State party was working to improve its system of free health care for children under the age of 5, pregnant women and lactating mothers. The education system was under constant review and efforts were being made to strengthen the National Youth Commission. No one had been prosecuted for the offence of carrying out an abortion since 1961. The Law Reform Commission was studying repeal of the law concerned. It was expected that the death penalty would be removed from legislation in the near future.

5. **Ms. Belmir** (Country Rapporteur), noting that article 20 of the Constitution reflected the content of article 1 of the Convention, said that, nonetheless, there was no clear definition of torture in the State party's legislation. Furthermore, there was no Criminal Code and the provisions of international treaties ratified by Sierra Leone required the passage of legislation in order to be incorporated into domestic law.

6. Implementation of article 2 of the Convention was hindered by the heterogeneous nature of the State party's legal system, including an unusual confluence of mandates of the judicial and executive branches: in few other countries did the Minister of Justice also act as the Attorney General. It appeared that police inquiries could be carried out by whomsoever the police deemed appropriate, that crime suspects were often held in custody for periods exceeding the legal maximum, and that they were rarely allowed access to a lawyer or independent medical practitioner. Persons had frequently been held in pretrial detention for a year and, in at least one case, as long as 6 years. Legislation on legal aid had not been implemented since its enactment in 2011. By and large, no records of arrest and custody were kept. The justice system was understaffed and slow and the Committee was

concerned about its independence. She asked whether the State party was doing anything to remedy those problems.

7. The recommendations made by the Truth and Reconciliation Commission regarding corporal punishment and the abolition of the death penalty should be implemented. Legislation still made it possible for people who had committed atrocities during the country's civil war to benefit from an amnesty.

8. Corporal punishment of children was still widespread and even supported by sectors of the public, in spite of the Child Rights Act. She asked what was being done to reincorporate former child soldiers into mainstream society. Women and girls were frequently subjected to violence and rape and had to deal with unwanted pregnancies and abortion. More than 90 per cent of women in the State party were subjected to female genital mutilation. Greater efforts needed to be undertaken to put an end to such atrocities.

9. It was unclear whether ritual murders were actually encouraged by traditional justice, to which the majority of people tended to turn instead of the formal justice system. Traditional judges did not have the training or independence to deal with such customs. Allegations of other injustices, such as women being forced to leave the family home at the whim of their husbands, had also been reported to the Committee.

10. The notion of non-refoulement was not addressed in the State party's extradition laws. Moreover, it appeared that the authorities lacked the resources and procedures for dealing with asylum seekers. The State party should amend legislation in order to extend its universal jurisdiction to cover, where appropriate, victims of torture who were nationals of Sierra Leone. It was unclear whether the Convention could be invoked as the legal basis for extradition. The State party should restart its reparations programme for victims of the civil war.

11. **Mr. Domah** (Country Rapporteur) said that the State party had provided no information in its initial report with regard to its obligation to provide training on the prohibition of torture for medical personnel, public officials and others. Police training was limited to new recruits, meaning that law enforcement officials who were already serving did not receive guidance on the prohibition of torture. Current legislation, to the extent that it addressed offences related to torture, provided for only lenient penalties, and was thus incompatible with the Convention's stipulation that punishment must be commensurate with the seriousness of the offence.

12. He asked why the enactment of the correctional services bill had been delayed and whether the use of corporal punishment had been abolished in prisons. He also asked whether the State party was planning to review police custody practices with a view to bringing them into line with the Convention. The ultimate responsibility for the application of article 12 of the Convention lay with the State, not with individual officials. He asked how impartial investigative bodies were. He would also like to have information regarding systems in place to safeguard the rights of torture victims under article 13 and to protect them against intimidation.

13. He requested statistics on the treatment of persons entitled to redress and compensation under article 14 of the Convention. As for article 15, he requested information on any law or judicial decision that illustrated how Sierra Leone satisfied the obligation to ensure that a statement made as a result of torture would not be invoked as evidence in any proceedings. He also wished to know whether the Government had set up a system of reparation.

14. He asked about the condition of children, especially those affected by war. He wondered whether the recommendations made by a commission of inquiry had been implemented. He noted that domestic violence tended to be overlooked by traditional

rulers, and that the police were also reluctant to take responsibility. He asked what was being done to reconcile the traditional system of justice with the formal system. He also asked whether there were programmes in place for victims of war who had been maimed. Such victims should receive help not only from NGOs and international charities but also from the State.

15. A prohibition against torture existed in the Constitution, but that alone was inadequate. What was important was what happened at the grass roots. The Constitution contained all the rights laid down by the United Nations and by the human rights treaties, including the Geneva Conventions, but obligations under those instruments must be translated into reality. It was commendable that the Government had, in 2013, set up the 80-person Constitutional Review Committee and he hoped that it would recommend an enforcement provision in the Constitution, so that any person whose rights were violated could cite the Constitution. In that connection, he asked what provision was made for the right of detainees to legal representation and medical attention. He also wondered why the adoption of the Correctional Services Bill had been delayed.

16. He asked about the workings of the Independent Police Complaints Board. He hoped that it had not been left to the police to monitor their own service. He asked what funding had been put at the Board's disposal and whether it was in a position to act impartially. Lastly, he noted that abortion was no longer treated as a crime and that there had been no prosecutions since 1961, but, in that case, he wondered why the law remained in force. The same applied to the claim that Sierra Leone was effectively an abolitionist State, although he noted that the death penalty was shortly to be removed from the statute book.

17. **Mr. Gaye** commended the delegation for the efforts made by Sierra Leone but emphasized the need for transparency in its justice system. Where there were two kinds of law — common and customary law — it was important to clarify the criteria for allocating a given case to one or the other. With regard to the allegations of torture by military personnel, mentioned in paragraph 42 of the report, he asked whether it was open to anyone to refer to the Human Rights Commission of Sierra Leone or whether that right was restricted to State bodies. He shared Ms. Belmir's concern about the question of universal jurisdiction. For example, if a foreigner committed torture abroad but was present in Sierra Leone, he wondered whether such a person could be prosecuted in Sierra Leone. He asked how truly independent the Independent Police Complaints Board really was. Moreover, the Board should also consider complaints made against military and prison staff.

18. **Mr. Modvig** commended the Government for submitting its initial report and for taking action to improve the situation, but realities on the ground could not be changed overnight. He asked what measures existed to deal with violations of the Convention, and, presumably, of national legislation, in the case of persons held in police vehicles all day for the lack of holding cells. He also asked about the case of a taxi driver arrested on a minor charge who had been beaten up and found dead three days later in his cell. He requested the delegation to investigate whether his death was caused by torture. He asked whether any assessment had been made of the role of the police officer concerned and whether any disciplinary measures had been taken. Generally, he would like to know what the procedure was in the case of deaths in custody and whether prompt and impartial investigation were conducted.

19. He welcomed the fact that the Government intended to do away with solitary confinement, but the Committee had been informed that, particularly in Freetown Central Prison, inmates had been kept isolated for up to four months. Lastly, he emphasized that minors should be held separate from adults, yet it had been reported that children were found imprisoned with adults, sometimes in the same cell. Minors had also been kept in

pretrial detention for several years on end. He asked how the Government intended to protect such minors.

20. **Mr. Tugushi** said that Sierra Leone faced numerous challenges, including the violation of individual human rights, corruption in the Government and the police and child labour. With regard to torture, he said that the major concern was the harsh, even life-threatening, conditions in prisons. Overcrowding was a problem, particularly in three prisons, and people were held for lengthy periods in pretrial detention. Prisons were unhealthy, with no medical care provided, poor lighting, bedding and ventilation, but many mosquitoes. Inmates lacked sufficient access to drinking water. He commended the Government's efforts to improve nutritional standards, however. It was to the Government's credit that NGOs had been permitted to visit the country's prisons, but the fact remained that the situation was bad. It was a concern that police cells were used as holding cells in small towns. The shortage of prison staff was unacceptable and the high level of deaths in custody — 21 in the course of a year — was shocking. He understood that finance was a problem, but some action must be taken. It was clear that the current situation was due to the accumulation of many problems and it was hard to find a solution.

21. **Ms. Gaer** noted that, in the past year, Sierra Leone had ratified three treaties and reported to three human rights treaty bodies and she wondered why that was so. She regretted that the report contained little detail: there were no statistics on, for example, the numbers of persons accused, what offences they had committed or how many had been released. Any detailed information would be welcomed. She commended the Government's efforts to improve the law on gender violence and rape, and the establishment of family support units in police stations, but it seemed that there was heavy pressure for such cases to be settled out of court, with the result that conviction rates were low. The reason was partly that rape and domestic violence were treated as private acts, rather than public acts that should be prosecuted by the State. Moreover, according to the United States State Department report on Sierra Leone, prosecutors assigned to rape and sexual violence cases were given only three weeks' training. She asked if that were true.

22. The Special Rapporteur on freedom of religion or belief had referred to accusations of witchcraft often levelled at elderly, childless women or disabled persons, among others. Such victims were maimed or killed with "witch guns" or chained up indefinitely in their villages, without trial. That was tantamount to torture. Lastly, she noted that it was reported that caning was still lawful and she asked whether the Government would take action to abolish such a punishment.

23. **Mr. Zhang** noted that the President had expressed the intention to separate the Office of the Attorney General from the Ministry of Justice, but the head of the delegation was living testimony to the fact that that had not occurred. It would, however, be an important step towards an independent judiciary. Secondly, he requested some examples of the functioning of the Independent Police Complaints Board.

24. **The Chairperson** said that, since Sierra Leone did not contain a definition of torture in its Criminal Code, the reform of the Constitution provided an excellent opportunity for the definition contained in the Convention to be adopted. He asked what plans the Government had to adopt the recommendations of the Truth and Reconciliation Commission. In particular, he noted that, under the 1973 Citizenship Act, a citizen of Sierra Leone must be of "negro African descent" and he asked if that was the case.

25. He asked whether the Government was contemplating the extension of the moratorium on the death penalty or even its outright abolition. He also asked whether there were any statistics on ritual murder. Such activities were reprehensible, no matter what the dictates of culture might be. Prosecution and punishment were an excellent way of changing such behaviour. He noted that female genital mutilation was still practised and he

wondered what action the Government was taking. He also asked about early marriage, since allowing a 13- or 14-year-old girl to marry an older man was a form of slavery. He asked how many lawyers and judges there were in Sierra Leone and whether the delegation considered that there were enough. He asked whether human rights defenders enjoyed full freedom of action and were properly protected. Lastly, he asked whether the Government was considering ratifying the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons.

26. **Ms. Belmir** said that there were problems of accessibility, efficiency and credibility in the justice system, so that many citizens turned to the informal rather than the formal justice system. The State party therefore needed to review its strategy for the reform of the justice system. The Committee would welcome additional information on results achieved to date in that area. It would also be grateful for details regarding the situation of children in conflict with the law.

27. **Mr. Domah** requested information with regard to the system for awarding reparations for acts committed by the State, State agencies and officials. He would be interested to know whether there was a legal aid system in the State party. He requested additional information regarding the plans to merge the traditional justice system with the formal justice system. He asked about the training provided to the police on the use of force. He invited the delegation to comment on the fact that, in addition to being overcrowded, prisons were understaffed. He wished to know whether there were any cases of torture being prosecuted and, if so, what sanctions had been imposed. He asked whether it was true that, although the State party had a Constitution, there was an older law that took precedence over it, under which torture was permitted.

28. **Mr. Tugushi**, recalling that deep concerns had been raised over reprisals, such as smear campaigns, threats, physical attacks and even killings, against individuals and groups that provided the Committee and other United Nations bodies with information, said that the entire treaty body system depended on free and safe cooperation with civil society. He urged the State party to ensure that none of the human rights defenders or civil society representatives who had cooperated with the Committee in the current process would suffer any form of reprisal whatsoever. He stressed that any reprisals should be promptly investigated and the perpetrators punished.

29. **Mr. Kargbo** (Sierra Leone) said that NGOs in Sierra Leone were free to operate and that the Government appreciated their contribution to the various processes the country was going through. The State party took human rights very seriously, and nobody would be victimized for having cooperated with any international or regional body. Civil society was heavily involved in the operations of the Truth and Reconciliation Commission and the Special Court for Sierra Leone.

The public part of the meeting rose at 5 p.m.